PREPARED BY & RETURN TO WILL CALL BOX #69

Gregory S. Kino, Esquire BOOSE CASEY CIKLIN LUBITZ MARTENS MCBANE & O'CONNELL 17th Floor - Northbridge Center 515 North Flagler Drive West Palm Beach, Florida 33401 Apr-16-1999 02:03ps 99-156694 ORB 11055 Pq 1396

DUNE WALKOVER MAINTENANCE AGREEMENT

THIS DUNE WALKOVER MAINTENANCE AGREEMENT ("Agreement") is made this day of May 21, 1999, by and between THE WATERFRONT ON THE OCEAN AT JUNO BEACH CONDOMINIUM ASSOCIATION, INC. (hereinafter "Association"), and the TOWN OF JUNO BEACH, a Plorida municipal corporation, 340 Ocean Drive, Juno Beach, Florida 33408, its successors or assigns (hereinafter the "Town").

WITNESSETH:

WHEREAS, the Association is the owner of real property within the municipal limits of the Town which is subject to an easement to provide for pedestrian and non-motorized vehicular access, ingress and egress; and

WHEREAS, the Association agreed to construct and maintain a dune walkover facility and install and maintain landscaping on such easement as reflected in that Grant of Easement recorded in Official Record Book 8525, Page 1733-1737 of the Public Records of Palm Beach County, Florida (the "Easement"); and

WHEREAS, such a Grant of Easement provides that the Association, its heirs, successors, and assigns, shall maintain the Easement in perpetuity; and

WHEREAS, the Association desires to transfer the dune walkover maintenance responsibility to the Town and the Town agrees to perform the such maintenance at its own cost and expense as long as the Association retains the responsibility for performing landscape maintenance at its own cost and expense.

NOW THEREFORE, for and in consideration of the sum of \$10.00 and other valuable consideration, receipt whereof is hereby acknowledged the Association and the Town agree to the following obligations:

The Town agrees to maintain at its sole cost and expense the dune walkover facility constructed on the Association's property as identified in that Grant of Easement recorded in Official Record Book 8525, Page 1733, Public Records of Palm Beach County, Florida. The dune walkover facility includes a wooden walkway, steps, covered seating area, and concrete parth with brick paver accents ("Dune Walkover")



- 2. The Association agrees to maintain at its sole cost and expense the landscaping which was part of that Easement and required to be installed pursuant to the approvals issued by the Town on October 8, 1980 and on May 18, 1994.
- 3. The Town agrees to rebuild the Dune Walkover at its sole cost and expense in the event of its destruction due to forces of nature, ordinary wear and tear and other causes except for a complete of partial destruction resulting from the Association's or its agents' actions or negligence.
- The Association agrees to re-landscape the Easement at its sole cost and expense in the event any postion of such landscaping is damaged or destroyed for any reason whatsoever.
- 5. In the event the Association fails to maintain or replace such landscaping, after ten (10) days' written notice from the Town, the Town may maintain and/or replace such landscaping at the Town's expense and the Association shall be responsible for reimbursing the Town. The Association agrees that in the event the Town undertakes the Association's responsibilities, the Association shall hold harmless and indemnify the Town, its agents or assigns from any claim, demand, suit or damages to property or person, resulting from the Town's actions in maintaining such landscaping.
- 6. The failure of the Association to comply with the terms and conditions of this Agreement may subject the Association to enforcement pursuant to the Town's Code Enforcement Board, Special Master, or court of competent jurisdiction.
- 7. The Town agrees to defend at its own cost and expense and hold the Association harmless from any third party claim that results from the use of the Dune Walkover by third parties after the effective date of this Agreement, however, such indemnification does not include any claim which results from the Association's own regligence or the Association's maintenance of the landscaping on such Easement. The Association agrees to defend and hold the Town harmless from any damage, injury or claim that results from the use of the Dune Walkover prior to the effective date of this Agreement. The Association agrees to maintain in full force and effect adequate liability insurance covering their responsibilities and habilities under this Agreement.
- 8. In the event of any dispute hereunder, the prevailing party in any court proceeding shall be entitled to recover all costs and expenses incurred by it in connection with the enforcement of this Agreement, including all reasonable attorneys feet and costs in connection therewith, including appeals.
- 9. To the extent that this Agreement conflicts with that Grant of Easement recorded in Official Record Book 8525, Page 1733, Public Records of Patra Beach County, Florida, this Agreement shall prevail. All other terms and conditions in that Grant of Easement not in conflict herewith shall remain in full force and effect.

- 10. The Association represents that it has full power, authority and consent to enter into this Agreement.
- 11. This agreement shall not be terminated or modified in whole or part unless in writing signed by both parties.

IN WITNESS WHEREOF the parties have signed this Agreement the date and year first written above.

TILLUVUL WOUTE.	
ATTESP Deborah Manzo, Fown Clerk	Tounk W. Harris, Mayor
APPROVED AS TO LEGAL SUFFICIEN Gregory S. Kino, Town Attorney	NCY:
	THE WATERFRONT ON THE OCEAN AT JUNO BEACH CONDOMINIUM ASSOCIATION, INC.
STATE OF FLORIDA COUNTY OF PALM BEACH	By: Leus Beurnag Arnold Stairman, It's President
The foregoing instrument was acknowledge	ge before me this 12 day of <u>March</u> , 1999, by FRANK W. lorida on behalf of the Town. He is personally known to me or who fication
My Commission Expires: MY COMMISSION	Jaramillo Public State of Florida 17, 2000 Motary Print Name Allison J Jaramillo FAM INSURANCE, INC.
STATE OF FLORIDA COUNTY OF PALM BEACH	
The foregoing instrument was acknowle Arnold Stairman the President of The Waterfre behalf of the Association. He is personally know identification.	dge before me this day of <u>March</u> , 1999, by ont on the Ocean at who beach Condominium Association, Inc. on on to me or who has produced as
My Commission Expire Allison J. Jaramillo MY COMMISSION & CC540659 March 17, 2000 BONDED THRU TROY FAIN INSURAN	